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M. E. ...

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-188627

DATE: November 9, 1977

MATTER OF: B&W Stat Laboratory, Inc.;
Qual-Med Associates, Inc.--
Reques: for Reconsideration

DIGEST:

Prior decision, holding that bidder's failure to acknowledge solicitation amendment may be waived, is affirmed where agency's request for reconsideration fails to show that amendment had more than trivial effect on price.

By letter of October 12, 1977, the District of Columbia Department of General Services requests reconsideration of our decision in B&W Stat Laboratory, Inc.; Qual-Med Associates, Inc., B-188627, August 26, 1977. In that decision, we held that the failure of B&W Stat Laboratory, Inc. (B&W) to acknowledge Addendum No. 2 to Invitation for Bids No. 0117-AA-65-0-7-BM should be waived as a minor informality under section 2620.14 of the District of Columbia Procurement Regulations because it had no significant effect on the solicitation's quality, quantity or delivery terms and because its effect on price (\$209) was trivial in comparison with the protester's bid price (\$145,460) and the difference (\$198,939) between the protester's bid price and that of the next highest bidder. Algernon Blair, Inc., B-182626, February 4, 1975, 75-1 CPD 75. The only substantive change made by Addendum No. 2 was in requiring the use of "no-carbon required" report forms instead of "an original and three carbon copies."

The D. C. Department of General Services contends that the cost of providing the forms required by Addendum No. 2 is not trivial and, therefore, failure to acknowledge the addendum may not be waived. In support of its position, the D. C. Department of General Services has submitted a memorandum from the printing branch of the D. C. Government indicating that the estimated cost of printing 43,000 4-part, no-carbon forms is \$2,250.00. This is in line with

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the \$3,000.00 estimated cost referred to in prior submissions of the D. C. Government, dated April 7, 1977 and May 11, 1977. The D. C. Department of General Services has introduced no evidence as to the effect of the addendum on the contract price, however. Under D. C. Procurement Regulations § 2620.14(B)(4)(b), the effect on price determines the propriety of waiving a bidder's failure to acknowledge an amendment. In our decision we noted that the protester contended that Addendum No. 2 increased the cost of performance by only \$150.00, a figure which was substantiated by the \$209.00 estimate supplied our Office by the U. S. Government Printing Office. Since the D. C. Government's request for reconsideration is not supported by any evidence indicating that the effect of the unacknowledged addendum was other than trivial, our prior decision sustaining B&W's protest is affirmed.

R. P. K. 1/14
Deputy Comptroller General
of the United States